

DOCKET NO.: TIBO-0009
Application No.: 09/589,167
Office Action Dated: September 11, 2003

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

REMARKS/ARGUMENTS

STATUS OF THE CLAIMS

Claims 1-29 are currently pending. Claims 1-12, 14-17 and 20-29 have been canceled. Claim 13 has been amended. After entry of this amendment, claims 13, 18 and 19 will be pending. Support for the amendment to claim 13 can be found in the claim as originally filed and throughout the specification. Support for "human deficiency virus type 1 (HIV-1)" can be found, for example, at page 8, line 25. Support for "patient" can be found, for example, at page 8, line 15; at page 9, line 26; at page 11, line 26; and at page 27, lines 14-15. Support for "inputting" can be found, for example, at page 22, line 27. Support for "wherein the predicting is accomplished by inputting the determined genetic sequence into the trained neural network and by comparing the determined genetic sequence with the trained neural network, the trained neural network then computes the predicted resistance of HIV-1 to a therapeutic" can be found, for example, at page 27, lines 12-26. No new matter is added. All claim amendments are made without prejudice and do not represent an acquiescence in any ground of rejection.

Claims 1-4, 6, 7 and 13-16 and 18-22 remain rejected under 35 U.S.C. §112, first paragraph, for lacking enablement. Claims 1-7 and 13-22 remain rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner's rejections are addressed below in the order they were presented in the Office Action mailed September 11, 2003.

Applicants' representative appreciates the time that the examiner and her primary examiner spent during a telephonic interview on Tuesday, February 24, 2004. Applicant's

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representative also appreciates the additional insight and clarity the examiners provided concerning the outstanding rejections.

REJECTIONS UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 1-4, 6, 7 and 13-16 and 18-22 remain rejected under 35 U.S.C. §112, first paragraph, for allegedly lacking enablement. Specifically, the examiner holds the view that the specification, while enabling for methods pertaining to HIV and specific therapeutic agents for HIV, the specification does not reasonably provide enablement for a method of predicting the resistance of any unknown pathogen to any unspecified agent.

Applicants representative again appreciates the comments from the examiner and her primary examiner during the telephonic interview concerning the outstanding Final Office Action. To expedite prosecution, Applicants canceled claims 1-12, 14-17 and 20-29. Therefore the examiner's rejection of claims 1-4, 6, 7, 14-16, and 20-22 has been mooted by cancellation of these claims. Applicants amended claim 13 for improved clarity and consistency of claim language. Therefore the rejection of claims 1-4, 6, 7 and 13-16 and 18-22 under 35 U.S.C. §112, first paragraph, should be withdrawn.

REJECTIONS UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Claims 1-7 and 13-22 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. More specifically, the examiner maintains her view that it remains unclear what steps are encompassed by "using" a data set. According to the examiner, one would not know what steps to implement in order to "use" a training data set as recited in the instant claims.

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To expedite prosecution, Applicants canceled claims 1-7, 14-17, and 20-22. Therefore the examiner's rejection of 1-7, 14-17, and 20-22 has been mooted by cancellation of these claims. Applicants also amended claim 13 for improved clarity and consistency of claim language. Specifically, "using" in claim 13 (b)(vi) was amended to "inputting". Therefore it is submitted that the rejection of claims 1-7 and 13-22 under 35 U.S.C. §112, second paragraph, be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206.332.1380.

Date: March 8, 2004


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